



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte OCTAVIUS J. MORRIS and TIMOTHY J. EVERETT, THREHAM

Application No. 09/172,435

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

*not because
no Reply Brief
was filed.
TTA
(see Interview Summary dated 1/6/05)*

This application was received at the Board of Patent Appeals and Interferences (BPAI) on February 2, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

37 CFR 1.193(b)(1) states:

Appellant may file a reply brief to an examiner's answer or supplemental examiner's answer within two months from the date of such examiner's answer or supplemental answer.

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On January 26, 2004, an Examiner's Answer was mailed (Paper No. 23) in response to Appellants Brief filed November 4, 2003, (Paper No. 22). As noted above, this application was received at the BPAI on February 2, 2004 which was prior to the expiration of the 2 month time limit for appellant to respond to the answer. Hence, we attempted to find out if a Reply Brief had been sent or was being sent before docketing the case to the BPAI. A call was made to the Attorney of Record (Mr. Michael E. Belk, Reg. 33,357) by Mr. Vasco Harper, a Paralegal Specialist, at the BPAI on March 24, 2004 in order to ascertain appellants' intentions in this regard. In a follow-up call by Mr. Harper, on March 25, 2004, Mr. Belk stated that the Answer had not yet to be received by him and asked that a copy of the answer be faxed to him. Mr. Harper complied with his request and copy of the Answer was faxed to him on March 25, 2004 (a copy of the Fax Cover sheet is enclosed). If appellants want the time period for response to the answer to be restarted, appellants must make such a request in writing.

Accordingly, it is

ORDERED that the application is returned to the examiner to determine if the Examiner's Answer mailed on January 26, 2004 needs to be canceled, and for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

By:

A handwritten signature in black ink, appearing to read 'Dale M. Shaw', written over a horizontal line.

DALE M. SHAW
Program and Resource Administrator
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cc: PHILIPS ELECTRONICS NORTH AMERICAN CORP
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Board of Patent Appeals and Interferences
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